**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**FIRST APPEAL No. 1478 of 1990**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**G.S.R.T. CORPORATION - Appellant(s)**
**Versus**
**SONAJIBHAI CHHOTABHAI & 6 - Defendant(s)**

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**Appearance :**
MS MAYA DESAI for Appellant(s) : 1,
MR BK OZA for Respondent No.1,
None for the respondent No.2 to 7 though served.

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**CORAM : HONOURABLE MR.JUSTICE R.S.GARG**

**Date : 14/08/2007**

**ORAL JUDGMENT**

1. Ms.Maya Desai, learned counsel for the appellant and Mr.B.K. Oza, learned counsel for the respondent No.1.

None for the respondent No.2, though served.

2. The appellant – Gujarat State Road Transport Corporation, being aggrieved by the award dtd.31/8/1989 passed by the Motor Accident Claims Tribunal (Auxiliary), Ahmedabad (Rural) in Motor Accident Claim Petition No.326 of 1986, is before this Court challenging the entire awarded amount.

3. Ms.Desai, learned counsel for the appellant submitted that from the facts it would clearly appear that the driver of the Bus was neither rash nor negligent and it would also appear that there was no evidence available on the records to show or prove that the deceased could earn on an average Rs.750=00 to Rs.800=00 per month. She submits that the tribunal could not make the award in sum of Rs.83,000=00.

4. Mr.Oza, learned counsel for the respondent, on the other hand, submitted that the deceased was a young boy and was healthy and energetic and if the tribunal has found that the deceased could make at least 20 boxes and earn Rs.30=00 per day, and his income could, therefore, be Rs.750=00 to 800=00 per month, there is nothing wrong in the finding. He also submitted that from the evidence available on the records, it would clearly appear that the

driver of the bus was driving the vehicle rashly and negligently.

5. I have gone through the evidence available on the records and I have also gone through the findings recorded by the learned tribunal. From the evidence it would clearly appear that the bus was trying to overtake a bullock cart and in the meanwhile, a cyclist, who was also on the road, came within the sweep of the bus which was overtaking the bullock cart.
6. It is common knowledge for a driver that if he wants to overtake a vehicle, then, not only he has to look at the speed of the other vehicle, but has also to see that whether there are oncoming vehicles or any vehicle is ahead of the vehicle sought to be overtaken.
7. In the present case, the tribunal was not unjustified in recording findings against the driver of the bus. Being in general agreement with the findings recorded by the learned tribunal, I hold that the driver of the bus was driving the vehicle rashly and negligently.
8. So far as the income part of the award is concerned, I must hold that the claimants could successfully prove that the monthly income of the deceased could be Rs.750=00 to Rs.800=00 per month. The tribunal has

deducted a sum of Rs.250=00 towards personal expenses and has held that the dependency could be Rs.500=00.

9. True it is that in case of a unmarried man, the tribunal is required to deduct some extra amount from the income, but in the present case, instead of applying a higher multiplier, the tribunal has applied multiplier of 12 only, which would mean that the tribunal being conscious to the facts, was not applying higher multiplier.

10. I find no reason to interfere. The appeal deserves to and is accordingly dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG,J.)

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